



Implementation
Plan for Title VI
of the
Civil Rights Act of
1964

2009

State of Alaska



Department of
Transportation
&
Public Facilities

TABLE OF CONTENTS

ADOT&PF Title VI Policy Statement	3
Notice of Compliance with Title VI	4
Definitions of Terms	5
Authorities	9
USDOT Standard Title VI Assurances	11
Appendices	21
 Organization	 26
Organizational Chart	26
Civil Rights Office	27
Staffing and Allocation of Resources	27
Position Descriptions	28
Title VI Specialist Responsibilities	30
Title VI Liaison Responsibilities	30
Regional Responsibilities	31
 Title VI Monitoring and Review	 32
Primary	36
Planning	36
Preliminary Design & Environmental	38
Right-of-Way	42
Construction	43
Research	45
Secondary	46
NHI Training Administration	46
Contracts and Consultant Contracting	47
Alaska Marine Highway System	49
International Airports	50
Sub-recipients	51
Contractors	
Other sub-recipients	
Special Emphasis	52
Design/Build Contractors	52
 Procedures to Identify and Eliminate Discrimination	 53
 Complaint Procedure	 54
 Deficiency Procedures	 56
 Limited English Proficiency Plan	 57

ANNUAL IMPLEMENTATION PLAN: 2009

ADOT&PF TITLE VI POLICY STATEMENT

It is the policy of the Alaska Department of Transportation and Public Facilities (ADOT&PF), in accordance with 49 CFR Part 21 (Department of Transportation Regulations for the Implementation of Title VI of the Civil Rights Act of 1964 and the Civil Rights Restoration Act of 1987 (P.L. 100.259), and 23 CFR Part 200 (Title VI Program and Related Statutes--Implementation and Review Procedures), Executive Order 12250, 23 USC 324 (Prohibition of Discrimination on the Basis of Sex), Title VIII of the Civil Rights Act of 1964, 23 U.S.C. 109(h), DOT Order 1050.2, the Civil Rights Restoration Act of 1987, and Executive Order 12898-Environmental Justice, that no person in the State of Alaska shall, on the grounds of race, color, sex, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Department receives federal assistance from the U. S. Department of Transportation, including the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA).

Date

Leo von Scheben
Commissioner
State of Alaska
Department of Transportation and Public Facilities

PUBLIC NOTICE OF COMPLIANCE WITH TITLE VI

**The following notice appears on the ADOT&PF web site at:
<http://www.dot.state.ak.us/cvlrts/>.**

Alaska Department of Transportation and Public Facilities

TITLE VI NONDISCRIMINATION POLICY STATEMENT

It is the policy of the Alaska Department of Transportation and Public Facilities (ADOT&PF), in accordance with 49 CFR Part 21 (Department of Transportation Regulations for the Implementation of Title VI of the Civil Rights Act of 1964 and the Civil Rights Restoration Act of 1987 (P.L. 100.259), and 23 CFR Part 200 (Title VI Program and Related Statutes – Implementation and Review Procedures), Executive Order 12250, 23 USC 324 (Prohibition of Discrimination on the Basis of Sex), Title VIII of the Civil Rights Act of 1964, 23 USC 109(h), DOT Order 1050.2, the Civil Rights Restoration Act of 1987, and Executive Order 12898 – Environmental Justice, that no person in the State of Alaska will, on the grounds of race, color, sex, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Department receives federal assistance from the U.S. Department of Transportation.

Persons who believe they may have experienced discrimination in the delivery of these federally-assisted programs or activities may file a confidential complaint with:

ADOT&PF Civil Rights Office
2200 East 42nd Avenue, Room 310
Anchorage, AK 99508
Telephone: 1-907-269-0851
Toll free in Alaska only: 1-800-770-6236
Fax: 1-907-269-0847
Alaska Relay: 7-1-1

DEFINITION OF TERMS

1. **Alaska Department of Transportation/Public Facilities (ADOT&PF).** The cabinet-level department responsible for the transportation systems and public facilities under acquisition, under construction, or owned by the State of Alaska, and the primary recipient of FHWA funds in the State of Alaska. Hereafter referred to as the "Department". The Department consists of headquarter offices (Aviation & Airports, Marine Operations, Communications, Legislative Liaison, Office of Program Development, Office of Design and Engineering Services, Harbors, the Highway Safety Office, Statewide Equipment Fleet, Internal Review, Contracting Procurement and Appeals, Transportation Management and Security three regional sections (Northern Region, Central Region, and Southeast Region) and two modal sections (Alaska Marine Highway System and Alaska International Airport System).
2. **Alaska Marine Highway System (AMHS).** A modal section of the Department that administers and operates the State ferry system.
3. **Annual Title VI Update.** The annual Title VI report from ADOT&PF to FHWA that covers the monitoring, reporting, and reviewing required by this Title VI Work Plan.
4. **Categorical Exclusion (CE).** The environmental document required when the effects of a project are known and have no significant individual or cumulative environmental impacts.
5. **Citizen Advisory Group (CAG).** A committee requested by the Department and established by a local or tribal government body of an impacted community during the development of a project. Through the CAG, the Department becomes aware of the community's needs and informs the community of its options and the decision making process to be used by the Department during the development of a project. *See also*, Stakeholder Advisory Group.
6. **Competitive Bidding.** A bid submitted in response to public notice of an intended sale or purchase.* As used here, this includes a public notice ad advertising of intended services.
7. **Contracting Officer.** Officials designated in the Department's Policy and Procedure 10-0017, Delegation of Authority, to serve as the Commissioner's representative and who have been given authority to sign contracts and make contracting decisions on the Commissioner's behalf.

* *Black's Law Dictionary*, 8th Ed.

- 8. Civil Rights Office.** The office of the Department responsible for implementing, administering, and monitoring the Department's external affirmative action and civil rights programs mandated by the USDOT which include External Equal Employment Opportunity (ExEEO), the Disadvantaged Business Enterprise (DBE) Program and related Supportive Services, Training Special Provisions (also known as On the Job Training (OJT)) and related Support Services, Title VI, and Contract Compliance.
- 9. Disadvantaged Business Enterprise (DBE) Program.** An affirmative action program mandated by the federal government under 49 CFR Part 23 & 26. The primary goal of the program is to provide an equal opportunity for the participation of women and minority owned firms on federally funded projects.
- 10. Environmental Assessment (EA).** The environmental document that determines the scope of impact(s) of a project (where the scope of impact(s) is undetermined). An EA concludes with one of two findings: 1) The need for an Environmental Impact Statement, or, 2) a Finding of No Significant Impact (FONSI).
- 11. Environmental Impact Statement (EIS).** The environmental document that identifies and analyzes the impacts of a project, develops and analyzes various alternatives, and recommends solution(s). Required on projects where the scope of impacts are known and contain significant individual or cumulative environmental effects.
- 12. Federal Aviation Administration (FAA).** A branch of U.S. Department of Transportation responsible for administering the nation's air transportation system.
- 13. Federal Highway Administration (FHWA).** A branch of the U.S. Department of Transportation responsible for administering the nation's highway system.
- 14. Federal Transit Authority (FTA).** A branch of U.S. Department of Transportation responsible for administering the nation's mass transit systems.
- 15. Interpreter.** Interpretation is the act of listening to something in one language (source language) and orally translating it into another language (target language).
- 16. Low-Income.** The FHWA Order on environmental justice defines "low-income" as "a person whose household income is at or below the Department of Health and Human Services poverty guidelines." However, a State or locality may adopt a higher threshold for low-income as long as the higher threshold is not selectively implemented and is inclusive of all persons at or below the HHS poverty

guidelines. The most current HHS poverty guidelines can be found at HHS's website: <http://aspe.os.dhhs.gov/poverty/poverty.htm>.

- 17. Mitigation.** Actions designed to lessen any adverse impacts of the Department's activities.
- 18. Minority Community.** A population living and congregating in a specific geographic area whose ethnicity or cultural background falls within a protected group identified under the Civil Rights Act of 1964 as amended.
- 19. Professional Services Agreement (PSA).** A negotiated contract between a State agency and a private consultant for the provision of professional services.
- 20. Program Areas.** Functional sections within the Department, e.g.: National Highway Institute Administration and Technology Transfer; Planning; Design (Preliminary Design and Environmental, Final Design,); Right-of-Way (ROW); Consulting Contracting (PSA); Research; Alaska Marine Highway System and Construction.
- 21. Recipient.** Any State, territory, possession, the District of Columbia, Puerto Rico, or any political subdivision, or instrumentality thereof, or any public or private agency, institution, or organization, or other entity, or any individual, in any State, territory, possession, the District of Columbia, or Puerto Rico, to whom Federal assistance is extended, either directly or through another recipient, for any program. Recipient includes any successor, assignee, or transferee thereof. The term *recipient* does not include any ultimate beneficiary under any such program.
- 22. Regions (Northern, Southeast and Central).** The three regional sections of the Department delineated by geographic boundaries, each containing all the Program Areas (as listed above), and together covering the entire State.
- 23. Special Emphasis program.** Areas other than or within those listed as Primary or Secondary programs that are subject to Title VI mandates. E.g., employment preference in the Denali Commission, Support Services within the CRO.
- 24. Stakeholder Advisory Group (SAG).** A committee requested by the Department and established by a local or tribal government body of an impacted community during the development of a project. Stakeholders include government agencies, Indian Tribal Governments, non-government organizations (NGO), business owners, and interested public and residents, including traditionally under-served and underrepresented communities. Also known as Citizen Advisory Group (CAG). Through the SAG, the Department becomes aware of the community's needs and informs the community of its options and the decision making process to be used

by the Department during the development of a project. *See also*, Citizen Advisory Group.

- 25. Sub-recipients.** Local governing bodies--this may be cities, municipalities, boroughs, tribal governments or entities such as universities or private firms (contractors and consultants are not included) --that receive "pass-through" FHWA funds from the Department. These governing bodies and/or entities have full control of project funds and ultimate responsibility for the outcome of the planned project.
- 26. Title VI** (Civil Rights Act of 1964, as amended). This federal regulation mandates that no person shall, on the grounds of race, color or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Department of Transportation receives federal assistance from the U.S. Department of Transportation, including the Federal Highway Administration (FHWA).
- 27. Title VI Specialist.** An employee of the Civil Rights Office who is responsible for coordinating, monitoring, training, and reporting on Title VI program requirements within the Department. The program encompasses the Title VI Civil Rights Act of 1964 and all other non-discrimination related statutes pertaining to gender, age and disability and environmental justice.
- 28. Title VI Liaison.** The appointed representative in each program area in each region who monitors and reports to the Title VI Specialist and Title VI issues and potential Title VI impacts that occur in the respective area and region.
- 29. Translator.** Translation is the replacement of a written text from one language (source language) into an equivalent written text in another language (target language).
- 30. United States Department of Transportation (USDOT).** The Cabinet-level department of the U. S. Government responsible for overseeing the nation's transportation systems.

AUTHORITIES

Title VI of the 1964 Civil Rights Act provides that no person in the United States will, on the grounds of race, color, national origin, or sex be excluded from participation in, be denied the benefits of or be otherwise subjected to discrimination under any program or activity receiving federal financial assistance (please refer to 23 CFR 200.9 and 49 CFR 21).

Civil Rights Restoration Act of 1987 broadened the scope of Title VI coverage by expanding the definition of terms “programs or activities” to include all programs or activities of Federal Aid recipients, sub-recipients and contractors, whether such programs and activities are federally assisted or not (Public Law 100259 [S.557] March 22, 1988).

Additional Authorities and Citations Include:

- Title VI of the Civil Rights Act of 1964
- Title VIII of the Civil Rights Act of 1968
- The Civil Rights Restoration Act of 1987
- The Americans with Disabilities Act of 1990
- 23 Code of Federal Regulations Part 200
- 23 United States Code 109(h)
- 23 United States Code 324
- 23 Code of Federal Regulations Part 771
- 28 Code of Federal Regulations 50.3
- 42 United States Code 2000d to 2000-4
- 42 United States Code 4601 to 4655
- 42 United States Code 6101
- 49 Code of Federal Regulations Part 21
- 49 Code of Federal Regulations Parts 26
- Executive Order 12250
- Executive Order 12898
- Executive Order 13166
- Executive Order 13175
- U.S. Department of Transportation Order 1050.2

- U.S. Department of Transportation Order 5610.2
- FHWA Order 6640.23
- Form-25D-55H (Federal Form 1273)
- Council on Environmental Quality (CEQ)

Manuals

- Department of Transportation & Public Facilities Policies and Procedures
- Alaska Planning Manual
- Alaska Highway Preconstruction Manual
- Alaska Environmental Procedures Manual
- Alaska Right-of-Way Manual
- Alaska Professional Services Agreement (PSA) Manual
- Alaska Construction Manual

USDOT STANDARD TITLE VI ASSURANCES

The (Title of Recipient) (hereinafter referred to as the "Recipient") HEREBY AGREES THAT as a condition to receiving any Federal financial assistance from the U.S. Department of Transportation it will comply with the Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d-42 U.S.C. 2000d-4 (hereinafter referred to as the Act), and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-Assisted Programs of the U.S. Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964 (hereinafter referred to as the Regulations) and other pertinent directives, to the end that in accordance with the Act, Regulations, and other pertinent directives, no person in the United States shall, on the grounds of race, color, sex, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to unequal treatment under any program or activity for which the Recipient receives Federal financial assistance from the Department of Transportation, including the (*Name of Appropriate Administration*), and HEREBY GIVES ASSURANCE THAT it will promptly take any measures necessary to effectuate this agreement. This assurance is required by Subsection 21.7(a) (1) of the Regulations, a copy of which is attached.

More specifically, and without limiting the above general assurance, the Recipient hereby gives the following specific assurances with respect to its (*Name of Appropriate Program*):

1. That the Recipient agrees that each "program and each "facility" as defined in Subsections 21.23(e) and 21.23(b) of the Regulations, will be (with regard to a "program") conducted, or will be (with regard to a "facility") operated in compliance with all requirements imposed by, or pursuant to, the Regulations.
2. That the Recipient shall insert the following notification in all solicitations for bids for work or material subject to the Regulations made in connection with all (*Name of Appropriate Program*) and, in adapted form in all proposals for negotiated agreements:

The (Recipient), in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively insure that in any contract entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

3. That the Recipient shall insert the clauses of applicable Appendix A of this assurance in every contract subject to the Act and the Regulations.
4. That the Recipient shall insert the clauses of Appendix B of this assurance, 'as a covenant running with the land, in any deed from the United States effecting a transfer of real property, structures, or improvements thereon, or interest therein.

5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the assurance shall extend to the entire facility and facilities operated in connection therewith.
6. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the assurance shall extend to rights to space on, over or under such property.
7. That the Recipient shall include the appropriate clauses set forth in Appendix C of this assurance, as a covenant running with the land, in any future deeds, leases, permits, licenses, and similar agreements entered into by the Recipient with other parties: (a) for the subsequent transfer of real property acquired or improved under *(Name of Appropriate Program)*; and (b) for the construction or use of or access to space on, over, or under real property acquired, or improved under *(Name of Appropriate Program)*.
8. That this assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property or interest therein or structures or improvements thereon, in which case the assurance obligates the Recipient or any transferee for the longer of the following periods: (a) the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or (b) the Recipient retains ownership or possession of the property.
9. The Recipient shall provide for such methods of administration for the program as are found by the Secretary of Transportation, or the official to whom he delegates specific authority to give reasonable guarantee that it, other recipients, sub-grantees, contractors, subcontractors, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Act, the Regulations and this assurance.
10. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Act, the Regulations, and this assurance.

THIS ASSURANCE is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property, discounts or other Federal financial assistance extended after the date hereof to the Recipient Department of Transportation under the *(Name of Appropriate Program)* and is binding on it, other recipients, sub-grantees, contractors, subcontractors, transferees, successors in interest and other participants in the *(Name of Appropriate Program)*. The person or persons whose signatures appear below are authorized to sign this ASSURANCE on the behalf of the Recipient.

Date

Leo von Scheben, Commissioner
State of Alaska Department of
Transportation and Public Facilities

USDOT STANDARD TITLE VI ASSURANCES FOR CONSULTANTS

NONDISCRIMINATION: TITLE VI, CIVIL RIGHTS ACT OF 1964: During the performance of this Agreement, the CONSULTANT, for itself, its assignees and successors in interest (hereafter referred to as the "CONSULTANT") agrees as follows:

1. COMPLIANCE WITH REGULATIONS: The CONSULTANT shall comply with the Regulations relative to nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Contract.
2. NONDISCRIMINATION: The CONSULTANT with regard to the work performed by it during the Agreement shall not discriminate on the grounds of race, color, sex, or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the Agreement covers a program set forth in Appendix B and C of the Regulations.
3. SOLICITATIONS FOR SUBCONTRACTS, INCLUDING PROCUREMENT OF MATERIALS AND EQUIPMENT: In all solicitations either by competitive bidding or negotiation made by the CONSULTANT for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the CONSULTANT of the CONSULTANT's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, sex, or national origin.
4. INFORMATION AND REPORTS: The CONSULTANT shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information and its facilities as may be determined by the Alaska Department of Transportation and Public Facilities, or the applicable Administration(s) of the U.S. Department of Transportation (e.g., FAA, FHWA, FRA, FTA), to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of a CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information, the CONSULTANT shall so certify to the Alaska Department of Transportation and Public Facilities or the applicable Administration(s) of the U.S. Department of Transportation, (e.g., FAA, FHWA, FRA, FTA) as appropriate, and shall set forth what efforts it has made to obtain the information.

5. **SANCTIONS FOR NONCOMPLIANCE:** In the event of the CONSULTANT's noncompliance with the nondiscrimination provisions of this Agreement, the Alaska Department of Transportation and Public Facilities shall impose such contract sanctions as it or the applicable Administration(s) of the U.S. Department of Transportation, (e.g., FAA, FHWA, FRA, FTA) may determine to be appropriate, including but not limited to:
 - (a) Withholding of payments to the CONSULTANT under the Agreement until the CONSULTANT complies; and/or
 - (b) Cancellation, termination or suspension of the Agreement, in whole or in part.
6. **CERTIFICATION OF NONSEGREGATED FACILITIES:** The Federally-assisted CONSULTANT hereby certifies that the CONSULTANT does not maintain or provide for the CONSULTANT'S employees any segregated facilities at any of the CONSULTANT'S establishments, and that the CONSULTANT does not permit the CONSULTANT'S employees to perform their services at any location, under the CONSULTANT'S control, where segregated facilities are maintained. The Federally-assisted CONSULTANT certifies further that the CONSULTANT will not maintain or provide for the CONSULTANT'S employees any segregated facilities at any of the CONSULTANT'S establishments, and that the CONSULTANT will not permit employees of the Consultant to perform their services at any location, under the CONSULTANT'S control, where segregated facilities are maintained. The Federally-assisted consultant agrees that a breach of this Certification is a violation of the Equal Opportunity clause in this Agreement. As used in this Certification, the term "segregated facilities" means any waiting rooms and other storage or dressing rooms which are segregated by explicit directive or are in fact segregated on the basis of race, color, or national origin, because of habit, local custom, or otherwise.
7. **INCORPORATION OF PROVISIONS:** The CONSULTANT shall include the provisions of paragraphs (1) through (7) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations, or directives pursuant thereto. The CONSULTANT shall take such action with respect to any subcontractor or procurement as the Alaska Department of Transportation and Public Facilities or the applicable Administration(s) of the U.S. Department of Transportation, (e.g., FAA, FHWA, FRA, FTA) may direct as a means of enforcing such provisions including sanctions of noncompliance; provided, however, that in the event a CONSULTANT becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the CONSULTANT may request the Alaska Department of Transportation and Public Facilities to enter into such litigation to protect the interests of the State, and in addition, the CONSULTANT may request the United States to enter into such litigation to protect the interests of the United States.

USDOT STANDARD TITLE VI ASSURANCES FOR CONTRACTORS

NONDISCRIMINATION

TITLE VI, CIVIL RIGHTS ACT OF 1964: During the performance of this contract, the CONTRACTOR, for itself, its assignees, and successors in interest (hereafter referred to as the "CONTRACTOR") agrees as follows:

1. **COMPLIANCE WITH REGULATIONS:** The CONTRACTOR shall comply with the Regulations relative to nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of the Contract.
2. **NONDISCRIMINATION:** The CONTRACTOR with regard to the work performed by it during the Contract, shall not discriminate on the grounds of race, color, sex, or national origin, in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The CONTRACTOR shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the Contract covers a program set forth in Appendix B and C of the Regulations.
3. **SOLICITATIONS FOR SUBCONTRACTS, INCLUDING PROCUREMENT OF MATERIALS AND EQUIPMENT:** In all solicitations either by competitive bidding or negotiation made by the CONTRACTOR for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the CONTRACTOR of the CONTRACTOR's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, sex, or national origin.
4. **INFORMATION AND REPORTS:** The CONTRACTOR shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to books, records, accounts, other sources of information and its facilities as may be determined by the Alaska Department of Transportation and Public Facilities to be pertinent to ascertain compliance with such regulations or directives. Where any information required of a CONTRACTOR is in the exclusive possession of another who fails or refuses to furnish this information, the CONTRACTOR shall so certify to the applicable Administration(s) of the U.S. Department of Transportation (e.g. FAA, FHWA, FRA, FTA), as appropriate, and shall set forth what efforts it has made to obtain this information.
5. **SANCTIONS FOR NONCOMPLIANCE:** In the event of the CONTRACTOR's non-compliance with the nondiscrimination provisions of the Contract, the Alaska Department of Transportation and Public Facilities shall impose such contract sanctions as it or the applicable Administration(s) of the U.S. Department of Transportation (e.g., FAA, FHWA, FRA, and FTA) may determine to be appropriate, including, but not limited to:

(a) Withholding of payments to the CONTRACTOR under the Contract until the CONTRACTOR complies; and/or

(b) Cancellation, termination or suspension of the Contract in whole or in part.

6. **CERTIFICATION OF NONSEGREGATED FACILITIES:** The Federally-assisted contractor hereby certifies that the CONTRACTOR does not maintain or provide for the CONTRACTOR'S employees any segregated facilities at any of the CONTRACTOR'S establishments, and that the CONTRACTOR does not permit employees to perform their services at any location, under the CONTRACTOR'S control, where segregated facilities are maintained. The Federally-assisted contractor certifies further that the CONTRACTOR will not maintain or provide for employees any segregated facilities at any of the CONTRACTOR'S establishments, and that the CONTRACTOR will not permit the CONTRACTOR'S employees to perform their services at any location, under the CONTRACTOR'S control, where segregated facilities are maintained. The Federally-assisted contractor agrees that a breach of this Certification is a violation of the Equal Opportunity clause in this contract. As used in this Certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms, and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, or national origin, because of habit, local custom or otherwise.
7. **INCORPORATION OF PROVISIONS:** The CONTRACTOR shall include the provisions of paragraphs (1) through (7) in every subcontract, including procurement of materials and leases of equipment unless exempt by the Regulations, or directives issued pursuant thereto. The CONTRACTOR shall take such action with respect to any subcontractor or procurement as the Alaska Department of Transportation and Public Facilities or the applicable Administration(s) of the U.S. Department of Transportation (e.g., FAA, FHWA, FRA, FTA) may direct as a means of enforcing such provisions including sanctions for noncompliance; provided wheresoever, that in the event a CONTRACTOR becomes involved in, or is threatened with, litigation with a subcontractor, or supplier as a result of such direction, the CONTRACTOR may request the Alaska Department of Transportation and Public Facilities to enter into such litigation to protect the interests of the State, and in addition, the CONTRACTOR may request the United States to enter into such litigation to protect the interests of the United States.

USDOT STANDARD TITLE VI ASSURANCES FOR DEEDS

The following clauses shall be included in any and all deeds effecting or recording the transfer of real property, structures or improvements thereon, or interest therein from the United States.

(GRANTING CLAUSE)

NOW, THEREFORE, the U.S. Department of Transportation, as authorized by law, and upon the condition that the State of Alaska, will accept title to the lands and maintain the project constructed thereon, in accordance with Title 23, United States Code, the Regulations for the Administration of Federal Aid for Highways and the policies and procedures prescribed by the Federal Highway Administration of the U.S. Department of Transportation and, also in accordance with and in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation (hereinafter referred to as the Regulations) pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (73 Stat. 252; 421 U.S.C. 2000d to 2000d-4) does hereby remise, release, quitclaim and convey unto the State of Alaska all the right, title and interest of the U.S. Department of Transportation in and to said lands described in Exhibit "A" attached hereto and made a part hereof.

(HABENDUM CLAUSE)

TO HAVE AND TO HOLD said lands and interests therein unto the State of Alaska and its successors forever, subject, however, to the covenant, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the said property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and shall be binding on the State of Alaska, its successors and assigns.

The State of Alaska, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person shall on the grounds of race, color, sex, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subject to discrimination with regard to any facility located wholly or in part on, over or under such lands hereby conveyed [,] [and]* (2) that the State of Alaska, shall use the lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal regulations, U.S. Department of Transportation Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended [,]

and (3) that in the event of breach of any of the above-mentioned nondiscrimination conditions, the U.S. Department of Transportation shall have a right to re-enter said lands and facilities on said land and the above described land and facilities shall thereon revert to and vest in and become the absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this deed.*

Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purposes of Title VI of the Civil Rights Act of 1964.

* Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purposes of Title VI of the Civil Rights Act of 1964.

**USDOT STANDARD TITLE VI ASSURANCES FOR DEEDS, LICENSES,
LEASES, PERMITS, ETC.**

The following clauses shall be included in all deeds, licenses, leases, permits or similar instruments entered into by the State of Alaska, pursuant to the provisions of Assurance 7(a).

The (grantee, licensee, lessee, permittee, etc., as appropriate) for himself, his heirs, personal representatives, successors in interest, and assigns as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add "as a covenant running with the land") that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this (deed, license, lease, permit, etc) for a purpose for which a U.S. Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.,) shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

[Include in licenses, leases, permits, etc.]*

That in the event of breach of any of the above non-discrimination covenants, the State of Alaska, shall have the right to terminate the [licenses, lease, permit, etc.] and to re-enter and repossess said land and the facilities thereon, and hold the same as if said [license, lease, permit, etc.] had never been made or issued.

[Include in deeds]*

That in the event of breach of any of the above non-discrimination covenants, The State of Alaska, shall have the right to re-assign facilities shall thereupon revert to and vest in and become the absolute property of the State of Alaska and its assigns.

The following shall be included in all deeds, licenses, leases, permits, or similar agreements entered into by the State of Alaska, pursuant to the provisions of Assurance 7(b).

The (grantee, licensee, lessee, permittee, etc., as appropriate) for himself, his personal representatives, successors in interest and assigns, as part of the consideration hereof, does hereby covenant and agree (in the case of deeds, and leases add "as a covenant running with the land") that (1) no person on the ground of race, color, sex, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the

use of said facilities (2) that in the construction of any improvements on, over or under such land and the furnishing of services thereon, no person on the ground of race, color, sex, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) shall use the premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended. [Include in licenses, leases, permits, etc.] *

That in the event of breach of any of the above non-discrimination covenants, the State of Alaska, shall have the right to terminate the [license, lease, permit, etc.] and to re-enter and repossess said land and the facilities thereon, and hold the same as if said [licenses, lease, permit, etc.] had never been made or issued.

[Include in deeds]*

That in the event of breach of any of the above non-discrimination covenants, the State of Alaska, shall have the right to re-assign said land and facilities thereon, and the above described lands and facilities shall thereupon revert to and vest in and become the absolute property of the State of Alaska, and its assigns.

* Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purposes of Title VI of the Civil Rights Act of 1964.

During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the “contractor”) agrees as follows:

- (1) **Compliance with Regulations:** The contractor shall comply with the Regulation relative to nondiscrimination in federally-assisted programs of the Department of Transportation (hereinafter, “DOT”) Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
- (2) **Nondiscrimination:** The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
- (3) **Solicitations for Subcontractors, including Procurements of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor’s obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.
- (4) **Information and Reports:** The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the State of Alaska or the *(Name of Appropriate Administration)* to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information the contractor shall so certify to the State of Alaska or the *(Name of Appropriate Administration)* as appropriate, and shall set forth what efforts it has made to obtain the information.
- (5) **Sanctions for Noncompliance:** In the event of the contractor’s noncompliance with the nondiscrimination provisions of this contract, the State of Alaska shall impose such

* The language of Appendix A of the USDOT STANDARD TITLE VI ASSURANCES for Title VI has been incorporated into §107-1.05 of ADOT&PF’s *Standard Specifications for Highway Construction* as Standard Modification E 66, to be included in all contracts.

contract sanctions as it or the *(Name of Appropriate Administration)* may determine to be appropriate, including, but not limited to:

- (a) Withholding of payments to the contractor under the contract until the contractor complies, and/or
- (b) Cancellation, termination or suspension of the contract, in whole or in part.

- (6) **Incorporation of Provisions:** The contractor shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

The contractor shall take such action with respect to any subcontract, or procurement as the State of Alaska or the *(Name of Appropriate Administration)* may direct as a means of enforcing such provisions including sanctions for non-compliance: Provided, however, that, in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the State of Alaska to enter into such litigation to protect the interests of the State of Alaska, and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

APPENDIX B

A. The following clauses shall be included in any and all deeds affecting or recording the transfer of real property, structures or improvements thereon, or interest therein from the United States.

(GRANTING CLAUSE)

NOW, THEREFORE, the Department of Transportation, as authorized by law, and upon the condition that the State of Alaska will accept title to the lands and maintain the project constructed thereon, in accordance with *(Name of Appropriate Legislative Authority)*, the Regulations for the Administration of *(Name of Appropriate Program)* and the policies and procedures prescribed by *(Name of Appropriate Administration)* of the Department of Transportation and, also in accordance with and in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation (hereinafter referred to as the Regulations) pertaining to and effectuating the provisions of the Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the State of Alaska all the right, title and interest of the Department of Transportation in and to said lands described in Exhibit "A" attached hereto and made a part hereof.

(HABENDUM CLAUSE)

TO HAVE AND TO HOLD said lands and interests therein unto State of Alaska and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and shall be binding on the State of Alaska, its successors and assigns.

The State of Alaska, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person shall on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part or over or under such lands hereby conveyed, and (2) that the State of Alaska shall use the lands and interests in lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in federally-assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended and (3) that in the event of breach of any of the above-mentioned nondiscrimination conditions, the Department shall have right to re-enter said lands and facilities shall thereon revert to and vest in and become the absolute property of the Department of Transportation and its assigns as such interest existed prior to this instruction.

APPENDIX C

The following clauses shall be included in all deeds, licenses, leases, permits, or similar instruments entered into by the State of Alaska pursuant to the provisions of Assurance 6(a).

The (grantee, licensee, lessee, permittee, etc., as appropriate) for himself, his heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add “as a covenant running with the land”] that in the event facilities are constructed, maintained, or otherwise operated on the said property describes in this (deed, license, lease, permit, etc.) for a purpose for which a Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulation, Department of Transportation, Subtitle A, office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

[Include in licenses, leases, permits, etc.]

That in the event of breach of any of the above nondiscrimination covenants, the State of Alaska shall have the right to terminate the [license, lease, permit, etc.] and to re-enter and repossess said land and the facilities thereon, and hold the same as if said [licenses, lease, permit, etc.] had never been made or issued.

[Include in deed]

That in the event of breach of any of the above nondiscrimination covenants, The State of Alaska shall have the right to re-enter said lands and facilities thereon, and the above described lands and facilities shall thereupon revert to and vest in and become the absolute property of the State of Alaska and its assigns.

The following shall be included in all deeds, licenses, leases, permits, or similar agreements entered into by the State of Alaska pursuant to the provisions of Assurance 6(b).

The (grantee, licensee, lessee, permittee, etc., as appropriate) for himself, his personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds, and leases add “as a covenant running with the land”) that (1) no person on the ground of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over or under such land and the furnishing of services thereon, no person on the ground of race, color, or national

origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) shall use the premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964), and as said Regulations may be amended.

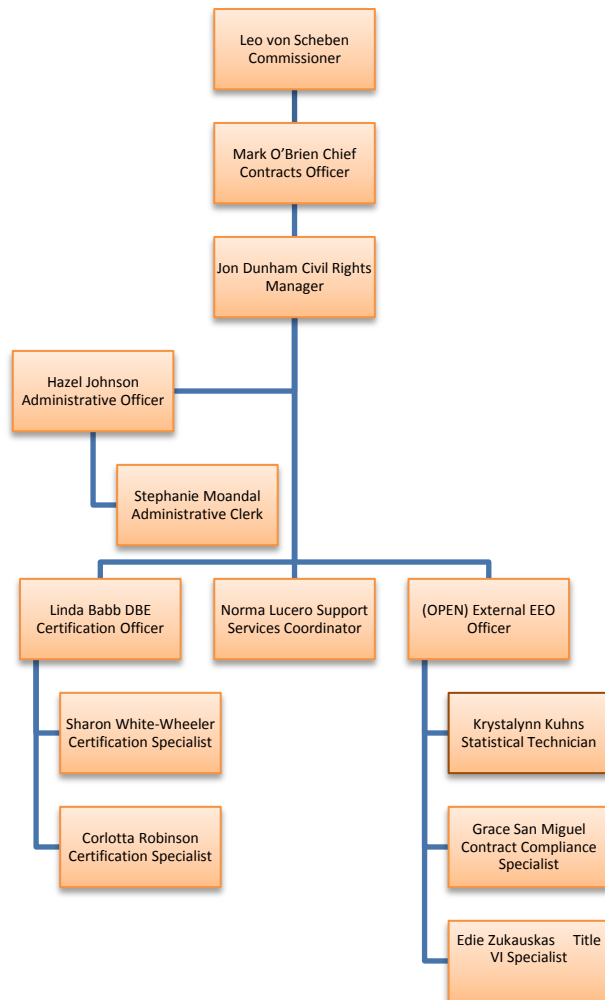
[Include in licenses, leases, permits, etc.]

That in the event of breach of any of the above nondiscrimination covenants, the State of Alaska shall have the right to terminate the [license, lease, permit, etc.] and to re-enter and repossess said land and the facilities thereon, and hold the same as if said [license, lease, permit, etc.] had never been made or issued.

[Include in deeds]

That in the event of breach of any of the above nondiscrimination covenants, The State of Alaska shall have the right to re-enter said land and facilities thereon, and the above described lands and facilities shall thereupon revert to and vest in and become the absolute property of the State of Alaska and its assigns.

Civil Rights Organizational Chart



ORGANIZATION

Civil Rights Office

The Civil Rights Office of the Alaska Department of Transportation and Public Facilities is responsible for implementing, administering, and monitoring the Department's civil rights and affirmative action programs mandated by USDOT including External Equal Employment Opportunity (ExEEO), Title VI of the Civil Rights Act of 1964, the Disadvantaged Business Enterprise (DBE) Program & related Supportive Services, On the Job Training (OJT)/Training Special Provisions & related Support Services, and Contract Compliance.

The Manager of the Civil Rights Office reports to the Chief Contracts Officer, who reports directly to the Commissioner. The Chief Contracts Officer is located within the Commissioner's office providing access to the Commissioner for the purposes of Title VI as required by 23 CFR 200.9 (b) (1).

Staffing

The Civil Rights Office has an authorized staffing of ten full-time positions and one part-time position covering the following spheres.

- a. Administration and Statistical Reporting.
- b. Technical Support and Compliance (Contractor Compliance, Title VI Specialist)
- c. Alaska Unified Certification Program (DBE certification and appeals for Alaska's 27 U.S. DOT recipients).
- d. Support Services (OJT Programs & Support Services, DBE Support Services).

Allocation of Resources

- DBE Certification (Outreach and technical assistance)
- Support Services (Outreach, education, and training programs)
- Compliance (Education and Technical assistance)
- Title VI Specialist (Monitoring, Education and Technical assistance)

Civil Rights Office Manager:

Responsible for overall Civil Rights Program implementation and reporting to Federal Highway Administration, Federal Aviation Administration, and Federal Transit Administration for Alaska Department of Transportation and Public Facilities; provides overall supervision of the Civil Rights Office Staff.

External EEO Officer (Contract Compliance, Title VI & ADA):

(Currently open) Performs contract compliance reviews/workforce audits and oversees enforcement of ExEEO, DBE, and OJT programs. Investigates discrimination complaints, administers departmental ADA and Title VI programs. Directly supervises Contract Compliance Officer, Title VI Specialist and Statistical Technician.

Title VI Specialist:

Performs audits of ADOT&PF programs and sub-recipients of federal assistance funds based on Title VI of the Civil Rights Act of 1964; reviews Environmental Documents (Environmental Impact Statements and Environmental Assessments) for compliance with Title VI of the Civil Rights Act of 1964, The National Environmental Policy Act, and the Environmental Justice Executive Order; provides technical assistance, oversight, and training of ADOT&PF personnel and Federal Highway Administration sub-recipients on Title VI requirements and compliance.

Contract Compliance Specialist:

Performs contract compliance reviews/workforce audits and enforces ExEEO, DBE, and OJT programs with the department's construction contractors; assists with implementation of the department's Title VI, DBE, and ADA programs.

Statistical Technician:

Maintains the Civil Rights Office database and works with contractors and Federal Highway Administration and Federal Aviation Administration on numerous aspects of reporting; provides statistical support to Civil Rights program areas.

DBE Certification Officer:

Administers the DBE certification program by coordinating functions between Alaska Unified Certification Program members, DBEs, and various agencies representing minority or women owned small or disadvantaged businesses; oversees certification outreach, processing of DBE applications, re-certifications and annual reviews. Assigns work of other DBE certification officers.

Certification Officer:

Assists businesses with navigating the DBE certification process; conducts outreach, validates applications, and performs re-certifications and annual reviews. Regularly communicates with other participants in the Alaska Unified Certification Program.

Support Services Coordinator:

Administers the DBE and OJT Support Services programs, working with DBE and Prime contractors bidding on Alaska Department of Transportation and Public Facilities projects.

Administrative Officer:

Manages administrative and budget functions; provides office support and assists with the 75% reimbursement training program for certified DBE firms working on FHWA Projects. Supervises administrative staff to include the Statistical Technician II and Administrative Clerk II with full responsibility for hiring, evaluation and discipline, discharge or adjudication of personnel matters.

Administrative Clerk (part time):

Handles all incoming communications with the Civil Rights Office and supports the administrative functions of the Civil Rights Office staff.

Title VI Specialist Responsibilities

The Title VI Specialist will:

- 1) Work with Section Chiefs to assist Project Managers, Planners, Contract Managers, and Personnel Officers in the reporting, coordinating, and reviewing process of the Title VI program.
- 2) Monitor and review program areas, to include sub-recipients, for compliance with Title VI.
- 3) Receive Title VI reports from the Program Areas, to include sub-recipients.
- 4) Receive and compile data based on Title VI regulations for inclusion in the Annual Title VI Update.
- 5) For the department's projects that contain Title VI issues, review and comment on the environmental documents during drafting to assure compliance with Title VI.
- 6) Develop and submit the Annual Title VI Update to the Federal Highway Administration (FHWA) for approval.
- 7) Provide Title VI guidance and training to Department personnel
- 8) Attend public meetings and hearings conducted by the department, as spelled out by this document.
- 9) Provide technical assistance and oversight to department personnel.
- 10) Provide leadership in Title VI implementation.
- 11) Assist in the investigation, processing, and adjudication of any Title VI complaints.
- 12) Develop and maintain a list of interpreters with foreign and Alaska Native language skills who would be available for the public hearings and meetings.
- 13) Provide Title VI related information in other languages, to the general public, where applicable.
- 14) Review and update the Work Plan annually

Title VI Liaison Responsibilities

In addition to the Title VI Specialist, each program area listed below will designate a Title VI Liaison for reporting and technical support to the CRO during Title VI monitoring and reviews. The Title VI Liaison will generally be the Compliance Officer.

- Planning
- Preconstruction
 - Preliminary Design, Environmental, Final Design
 - Right-of-Way (ROW)
 - Contracting

- Construction
- Maintenance and Operations
- Research
- NHI Training Administration & Technology Transfer
- Alaska Marine Highway System
- State of Alaska Airports (when FHWA funds are used on airport property)
- Sub-recipients

The liaison will be responsible for ensuring compliance, program monitoring, reporting and education within their respective programs. The Title VI Specialist meets as required either in person, via email, or conference call with the Title VI liaisons to discuss program implementation and compliance monitoring issues within ADOT&PF.

Regional Responsibilities

Division managers at Headquarters, Regional, Chief Administrative and Division managers in three regions and the two modal systems will provide reports to the Title VI Specialist as outlined in the Monitoring and Review Section of this Plan. The managers will be responsible for overseeing that Project Managers, Planners, and Contract Managers complete and transmit reporting forms to the Title VI Specialist. Managers and the Title VI Liaisons will also work with the Title VI Specialist to:

- 1) Determine training needs and to identify individuals who should attend classes;
- 2) Assist in pre-training activities (sending out notices, obtaining facilities, etc.);
- 3) Serve as a resource to the Civil Rights Office in designing training courses;
- 4) Provide assistance during the conduct of reviews and sub-recipient audits.

Title VI Monitoring & Review Process

Monitoring Process

Title VI Liaison: The Title VI Specialist will monitor all Primary programs on a regular basis, and will maintain monitoring activities in Secondary programs, as resources or circumstances demand. The findings will be reported in the Annual Implementation Update. To this end, each program area, Primary and Secondary, will appoint a Title VI Liaison/Compliance Officer to assist in reporting and technical support. The liaison will be responsible for ensuring compliance, program monitoring, reporting, and education within their respective programs.

Required reporting: The Title VI Specialist, on behalf of Project Managers, Program Developers, and Contract Managers representing all Program Areas listed below, will be responsible for Title VI reporting in accordance with this plan. Required reporting within the program areas will be completed promptly and forwarded to the Title VI Specialist the second week following the end of each quarter of the calendar year (April 15, July 15, October 15, and January 15), **or** on a continuing basis as reportable information becomes available. (*See below: Notice of possible Title VI Impacts.*) The Title VI Specialist will review incoming information from the various areas to assure that Title VI reporting is being done correctly and that the department is meeting the requirements of Title VI.

Notice of possible Title VI Impacts: It will be the responsibility of the Liaison to inform the Title VI Specialist of any event or occurrence that had, or may have had, a discriminatory impact on protected parties. Unless participation or support is requested of the Title VI Specialist, notice of such events or occurrences may be sent on a regular basis via email, or can be compiled and forwarded quarterly.

Periodic monitoring meetings: There will be periodic meetings comprised of all Title VI Liaisons and the Title VI Specialist to discuss program implementation and compliance monitoring, and any issues or questions that may have resulted from the program implementation or monitoring activities. All information that had not yet been shared with the Title VI Specialist will be forwarded one week prior to the meeting. After each meeting, the Title VI Specialist will compile all the information into report form and forward a copy to the respective liaisons for comment. These reports will then become part of the Monitoring section of the Annual Implementation Update.

Annual Reviews

In addition to the monitoring responsibilities, the Title VI Specialist will conduct:

1. Compliance reviews each year of at least two Program Areas to determine the effectiveness of the Program Area activities at all levels. At least one review annually will be from the Primary Program Areas. Program areas to be reviewed will be on a rotating basis to verify that

there is a full understanding of Title VI and other civil rights laws, and to ensure enforcement. The rotation system of selection may be changed in the event there is a complaint, or there is other reason to believe that a particular program area falls short of the goals and/or requirements of Title VI.

2. At least one annual review of a special emphasis program area to determine the effectiveness of program area activities at all levels.

3. Title VI reviews of sub-recipients, cities, counties, consultant contractors, suppliers, universities, colleges, planning agencies, and other recipients of Federal-aid highway funds.

4. Reviews of State program directives.

5. Reviews of grant applications if and when applicable.

The Program Areas are:

Primary Programs

Planning
Project Development (Preliminary Design & Environmental)
ROW (Right-of-Way)
Construction
Research

Secondary Programs

NHI training Administration & Technology Transfer
Construction Contracts
Alaska Marine Highway System
International Airports when FHWA funds are used on airport property
Sub-recipients

Special Emphasis Programs

Special Emphasis programs are areas other than those listed as Primary or Secondary programs that address employment practices and require compliance with Title VI mandates. Examples of Special Emphasis include, but are not exclusive, are: Employment of women, Indian preference and employment preference in the Denali Commission, Civil Rights and wages, contracts, apprenticeship programs, and Support Services within the CRO. The CRO will determine whether a particular program needs review as an area for Special Emphasis treatment.

Some of these programs receive separate attention because, traditionally, the areas exclude minorities, women, and low income populations. Programs such as the Denali Commission are

included because of the local labor hiring preference included in the charter. Indian preference is a political rather than racial area, and there are provisions for preference in hiring. Special Emphasis can include sub-areas, or can be completely separate areas that warrant review to determine effectiveness of current procedures.

Review Process for DOT&PF program areas

Reviews will be conducted on-site and will encompass internal functions that apply to all program areas. These functions are integral to the review process and include staffing, training, and complaint processing.

Program areas slated for review will receive a Notice of Review at least 60 working days prior to the onsite visit. Review Questions will accompany the Notice of Review. The Title VI Liaison or other designated person will answer and return the questions to the Title VI Specialist at least 30 days prior to the onsite visit.

The review will consist of (1) an opening conference, (2) the questionnaire, (3) review of files and documents, (4) interviews, and (5) an exit conference. Findings of compliance and/or non-compliance, with recommended corrective actions, will be forwarded to the responsible section chief and the FHWA 30 days following the review.

Primary Review Areas

Planning

1. Identification of Impacts: Planning impacts communities, villages, neighborhoods, etc., by conveying knowledge to the communities about how to propose a road project for funding on the State Transportation Improvement Program (“STIP”), scheduling and scoping projects. Planning conducts studies, assists communities with local and tribal transportation plans, develops area, regional and statewide transportation plans, defines and estimates costs of projects; develops capital improvement programs, occasionally provides assistance in developing environmental documents, and supports project development. The Planning staff is also the primary point of contact with local and tribal governments in identifying and scoping projects for consideration on the STIP. Planning impacts the professional consultant community by administering consultant contracts for studies, plans, capital programs and project development.

2. Mitigation Measures: During the Planning phase, the Title VI issues of any given project may be unknown because at this time there is no project development funding. As a result, no in-depth project evaluation has occurred. Project specific Title VI issues will be addressed through the environmental process.

During the development and planning efforts, the responsible Planner will evaluate the scope of the Master Plan. The Title VI Specialist will be included in the review process through the quarterly meetings with the Title VI Liaison to assure that any Title VI issues that may arise in the Master Plan will be properly addressed.

In urban areas, Metropolitan Planning Organizations (“MPO”), such as the Anchorage Metropolitan Area Transportation Study (“AMATS”), and the Fairbanks Metropolitan Area Transportation Study (“FMATS”), identify needs, as well as scope, and schedule projects. The Title VI Specialist will be included in the triennial review of these MPOs. The Title VI Specialist and MPO staff will keep a record of instances when Title VI issues arise and the manner in which they were addressed.

3. Public Involvement: Planning seeks public involvement through public meetings that the Planning section conducts. Stakeholder Advisory Groups (“SAG”) and Citizen Advisory Groups (“CAG”)* may be used to facilitate some planning efforts. For each project where the Project Manager has identified Title VI issues, and where a CAG is involved, the Project Manager will fill out the Public Meeting forms (Public Meeting – CAG Form and the Public Meeting Sign-in Sheet), and transmit these forms to the Title VI Specialist. The Title VI Specialist will keep and compile these forms for the Annual Title VI Update Report.

* References to Citizen Advisory Groups or CAG include Stakeholder Advisory Groups throughout the report.

- A. Public meetings may be conducted for various planning and project development efforts. For public meetings, the monitoring and reporting process will be the same as mentioned in (3) above. The Planner will communicate with the Title VI Specialist before the meeting. For any meeting where there may be Title VI issues, the Title VI Specialist will either attend the meeting or discuss the Title VI issues with the Planner to assure that any Title VI issues that come up at the meeting are identified and properly addressed.
- B. For any meeting that has Title VI issues, the Planner will decide whether interpreter services may be required. If interpreter services are needed, the Planner will notify the Title VI Specialist and will then make the necessary arrangements to have the appropriate interpreter(s) attend the meeting.
- C. Information regarding attendance of the meeting will be recorded on the Public Meeting forms. If in attendance, the Title VI Specialist will have the responsibility for the completion of these forms. If the Title VI Specialist is not in attendance, it will be the responsibility of the Planner to complete these forms. The Planner will inform the Title VI Specialist of all meetings/hearings and forward an agenda as applicable.

4. Benefits and Services: Contracting opportunities for women and minority-owned planning consultants will be optimized. Opportunities for the involvement of all people, including women and minorities, at public meetings held for Master Plans will be the best possible. By working with local and tribal government cooperative planning organizations, local communities will be able to provide input into the planning process. This will ensure accessibility to employment, schools, health care, churches, emergency services, transportation services, and other community facilities.

5. Reporting Requirements: The reporting requirements that arise from planning activities are as follows:

- A. For each public meeting conducted by planning, where the Planner determines that there are no Title VI issues, the Planner will document this finding and compile a record for the Title VI Update using the Public Meeting forms.
- B. For each public meeting where the Planner determines that there are Title VI issues, the Title VI Specialist will document the Title VI issues. The Title VI Specialist, using the appropriate forms, will also document (i) how these issues were addressed, and, (ii) the final resolution of the Title VI issues in the Planning process. This information will be compiled for the Annual Title VI Update.

Preliminary Design & Environmental (PD&E)

1. Identification of Impacts: The Design Process impacts communities, neighborhoods, villages, etc., by taking the general scope of a project that Planning defines and developing that project into a final set of plans and contract specifications ready for construction. The Design Section impacts the professional consultant community by administering consultant contracts for design engineering, surveying, etc.

2. Mitigation Measures: The PD&E Section uses the following procedures to assure that the Department's projects are developed consistent with Title VI.

Overall Project Development: The regulations require that all FHWA projects be developed consistent with Title VI. Executive Order 128978, Environmental Justice, provides for additional civil rights requirements regarding non-discrimination in environmental considerations and decisions made by the Department. The mechanism established by the Federal regulations to guide and oversee project development is the environmental document. As mandated by these regulations, all projects that have any potential Title VI impacts are subject to investigation and evaluation by either an Environment Assessment (EA) or an Environmental Impact Statement (EIS). The document that represents a project with no significant impact is the Categorical Exclusion (CE).

To ensure that the Department's significant projects are developed consistent with the requirements of Title VI, the responsible party will notify the Title VI Specialist of any project that may entail Title VI issues. Upon notification, the Title VI Specialist will confer with the Project Manager to determine whether the project has Title VI issues. If there is a determination that there are Title VI issues, The Title VI Specialist will be included in the review and comment process of the EA or EIS to assure that Title VI issues are properly understood, addressed and mitigated. This process increases the likelihood that Title VI issues of the Department's projects are resolved during the design phase.

3. Public Involvement: For each project requiring an EA or EIS, 23 C.F.R. §771 mandates the Department advertise for a "Notice of Opportunity for Public Hearing". The Department may also create a Citizen Advisory Group (CAG) ^{**} to help foster community support for the project.

- A. Public Hearing. The Department advertises each Notice of Opportunity for Public Hearing in such periodicals and newspapers as are necessary to provide optimum coverage of the affected area to maximize opportunities for awareness by all people affected, including women, minorities, and low-income and any other underrepresented populations. The Public Hearing process requires a

^{**} To avoid confusion, CAG is used to indicate either the Citizen Advisory Group or the Stakeholder Advisory Group. Either term may be used to refer to a committee developed to represent the interests of a community impacted by a Department project.

formal transcript be made of the hearing and that all verbal or written comments presented at the hearing or submitted as part of the hearing, be addressed.

When public response requires the holding of a Public Hearing, the Project Manager will evaluate the project for potential Title VI issues. For any project where there are Title VI issues, the Title VI Specialist will either attend the Public Hearing or review the transcript of the hearing to assure that any Title VI issues that come up at the hearing are identified and properly addressed. Information collected through public hearings is included in the environmental document. The Title VI Specialist will be involved to assure that the Title VI issues are properly mitigated.

Where Title VI issues are present, the Project Manager will decide whether the services of an interpreter will be required, and will be responsible for making the necessary arrangements. Information regarding attendance of the Public Hearing will be recorded on a copy of the Public Meeting forms. If present, the Title VI Specialist will be responsible for completing the forms. The Project Manager will otherwise assume this responsibility.

- B. *Citizen Advisory Groups.* During the development of a project, the Department often finds that creating a CAG helps in getting community cooperation and understanding for project. The CAG helps bring the impacted community into the project development process. The method of creating a CAG follows:

The project Manager will call the local or tribal government of the impacted community and ask for the appointment of a group of community members. Specifically, the Project Manager will request the community council to choose 3 - 5 people. The Project Manager will emphasize the importance of obtaining members for the group that represent a cross-section of the make-up of the community, including at least one woman, and if the community has an ethnic component, a member from that part of the community. The CAG helps to bring the community's wishes into the environmental and design processes. This group also explains to the community what these processes are, as well as any constraints on the project that may be consistent with or contrary to the interests or desires of the community.

The Project Manager will meet with the appointed members of the CAG and notify the Title VI Specialist of the actual make-up of the CAG, and any identified Title VI issues. Notification will be on the Public Meeting – CAG Form.

- C. *Balancing the natural and Human Environment.* All projects designed and constructed by the Department will guarantee that all people will have equal treatment and all will realize balanced benefits and burdens from the project(s). The analysis of the human environment by Department personnel and/or

consultants will be the same as that for the natural environment. Project Managers must have a clear picture of the project area. In order to determine if potential impacts exist, it is necessary to conduct a demographic analysis. Knowing whether minorities, low-income, or individuals with disabilities or having low proficiency in English live within the project area helps the managers in their public involvement and future outreach efforts. To provide a focus for the human environment that is on par with that of the natural environment, the following must be considered:

- Develop a project database for gathering a good data set for the project area that involves the census, ground surveys, and discussions with various groups such as public health workers, school district officials, community leaders, and refugee and immigrations officials to determine whether there are minority communities or low-income populations within the project area. Consistency is imperative, with data gathered for every project, regardless of location or size.
- Use the project database to determine if there are populations that lack proficiency using English for communication. Provide multilingual communications to ensure the impacted populations are fully engaged in the development process.
- Provide a process to measure the benefits and burdens of the project to determine if there is an equitable and fair outcome for everyone.
- Use the project database to implement a public engagement and participation plan that effectively seeks out participation. Be sensitive to culture. Confirm that the time and day of the meeting is convenient for all populations, or plan on additional meetings to accommodate all populations. Choose a location that is inviting and well-coordinated with community officials, including opinion leaders, elders, representatives of various groups, etc.

4. Benefits and Services: All projects, including those with Title VI issues, will be designed with the assurance that all people will have equal treatment, and all will realize balanced benefits and burdens from the projects designed and constructed by the Department.

5. Reporting Requirements: The reporting requirements that arise from Environmental and Design activities are as follows:

- A. For each public meeting/hearing where the Project Manager determines that there are no Title VI issues, the Project Manager will document this finding and send it to the Title VI Specialist for the Annual Title VI Update using the Public Meeting forms.

- B. For each public meeting/hearing where the Project Manager determines that there are Title VI issues, the Title VI Specialist will document the Title VI issues. The Title VI Specialist will also document (i) how these issues were addressed in the meeting, and (ii) the final resolution of the Title VI issues in the project development process. If the Title VI Specialist is not in attendance, the Project manager will document the issues and include any supporting data. The Title VI Specialist will compile this information for the Annual Title VI Update.
- C. The Title VI Specialist will compile a list of all EAs that found no Title VI impacts, and all EAs and EISs that did identify Title VI impacts. The Title VI Specialist will then write a short summary of the issues and how the issues were resolved. The summary will be included in the Annual Title VI Update.

Right-of-Way (ROW)

1. Identification of Impacts: The Right-of-Way Section impacts communities, villages, neighborhoods, etc., through management of property, acquisition of property, and the relocation of individuals, businesses, farms, and non-profit organizations.

The ROW Section impacts the community of real estate appraisal firms, title companies, engineering firms, and property management firms by advertising and administering consultant contracts.

2. Mitigation: ROW will duly note the apparent ethnic and racial make-up of each household that is purchased or relocated. The ROW Section uses the procedures given in the *Uniform Relocation Assistance and Real Property Acquisition Regulations for Federal and Federally Assisted Programs* that assure that all relocations are done in a non-discriminatory manner.

3. Public Involvement: ROW attends, in an advisory capacity, public meetings/hearings that are conducted by Planning and PD&E, but does not advertise or hold public meetings/hearings directly. The section holding the public meetings/hearings, i.e., Planning and/or PD&E, will monitor the proceedings and make reports.

4. Benefits and Services: All persons will be given an equal and non-discriminatory opportunity to relocate to decent, safe, and sanitary replacement dwellings of their choosing within their financial means. Efforts should optimize utilization of women and minority owned real estate appraisal firms, title companies, engineering firms, and property management firms.

5. Reporting Requirements: The Relocation and Property Management Supervisor will provide the Title VI Specialist with the total numbers for each project involving relocation and/or acquisitions of businesses and/or homeowners. This report will include the number of women/minority owned businesses and minority homeowners relocated as recorded in the ROW agent's diary. This information will be submitted on the Title VI Activity Report, form 25A-R210.

Construction

1. Identification of Impacts: The Construction Area impacts the community during the actual construction of a project. Construction administers and monitors the project, and oversees the transient conditions of congestion, temporary re-routing of traffic, air and/or water contamination, noise, and other nuisances that impact homeowners, businesses, and other aspects of community. Additionally, these projects provide contracting opportunities and jobs in the construction industry for Disadvantaged Business Enterprise (DBE) firms.

2. Mitigation: Federally funded construction contracts require that Prime Contractors seek out women and minority owned firms as subcontractors, manufacturers, suppliers, and/or brokers. The CRO publishes a directory of certified DBEs and makes this directory available to all prime contractors via the internet and by mail.

Construction personnel will meet with businesses, homeowners, and other stakeholders in all areas of the state to minimize construction impacts. Safety for the travelling public and others affected by detours, lane closures, etc. is the overriding concern for the community. To the best of their ability, Construction staff will make available to the public information about construction delays, noise, and other specific areas of impact.

3. Public Involvement: Construction staff attends local community meetings, and meets with impacted businesses, homeowners, etc., before and during construction to explain the transient impacts of the project regarding detours, road closures, noise, etc. Construction will report the attendance and results of Post Award conferences, conducted in accordance with Alaska Administrative Order 199, in their respective regions. Title VI impacts identified during such conferences will be reported to the Title VI Specialist for evaluation and further action.

4. Benefits and Services: Prime contractors have easy access DBEs certified by the Alaska Unified Certification Program through the use a published directory. This increases the opportunities for utilization of women and minority owned sub-contractors, manufacturers, suppliers, and brokers on the Department's projects.

5. Reporting Requirements: The Construction Compliance Officer will transmit to the Title VI Specialist a copy of the Preconstruction Conference Synopsis showing that Title VI aspects of the contract have been discussed. The following documents will be forwarded to the Civil Rights Office for each construction contract awarded:

- EEO-1 Certification, Form 25A-304
- Contact Report, Form 25A-321A
- DBE Utilization Report, Form 25A-325C
- Prime Contractor's Written DBE Commitment, Form 25A-326

- Summary of Good Faith Effort, Form 25A-332A (when appropriate)

This information will be compiled by the Title VI Specialist for the Annual Title VI Implementation Update. The CRO will include copies of the DBE mailings in the Annual Title VI Update.

In addition to the Title VI monitoring, the Title VI Specialist will verify that Title VII (EEO) Form 25D-55 (Federal Form 1273) is included in all contracts examined during the on-site portion of the Program Area review for Construction.

Research

The Department's Headquarters Design and Engineering Standards oversee research activities using an Advisory Board to select project. The Advisory Board is composed of nine (9) ADOT&PF personnel and one FHWA representative. Substantial portions of research projects are done in-house at ADOT&PF through the Headquarters and Regional Materials Sections. The University of Alaska Fairbanks is regularly used to perform research projects for ADOT&PF. There is occasional use of other universities when it is necessary to go out of state to find the facilities and expertise required. These educational institutions comply with their own non-discrimination programs.

Reporting Requirements: The following information will be reported in the Annual Title VI Update and will be submitted using the Title VI Research Report.

- The number of research projects currently under way or completed during the year;
- A list of universities and/or consultants who have conducted research projects;
- Actions taken to encourage participation of women and minority students in research projects conducted at universities;
- A summary of actions taken to increase women and minority consultant firms in obtaining research projects;
- A list of significant actions planned for the upcoming year.

Secondary Review Areas

NHI Training Administration, Research & Technology Transfer (RTT)

1. Identification of Impacts: Research & Technology Transfer manages the NHI program. RTT staff conducts and oversees research projects on behalf of the Department. RTT also maintains reciprocal activity contact with the national and international transportation research community to obtain research findings that may have application in Alaska. RTT provides significant findings to appropriate Department personnel, local agencies, and the public through publications, training, and other means.

Training administration impacts the Department's employees by providing NHI produced training courses from the annual NHI course catalogue. The Department identifies training that focuses on, or promotes knowledge about nondiscrimination and the prevention of discriminatory practices in the provision of services.

2. Mitigation Measures: The RTT newsletter, *Technology for Alaskan Transportation*, and NHI training courses are offered on the website are available to all ADOT&PF employees.

3. Public Involvement: NHI publishes training sessions in the RTT newsletter, *Technology for Alaskan Transportation*. The newsletter is available to all interested parties, including Department personnel, local, and tribal governments, statewide media, legislative offices, and the Alaska Associated General Contractors. It is available to the public on the Department Web site.

4. Benefits and Services: NHI Training and other RTT programs provide up-to-date information in all areas of civil rights applicable to the Department. They are available to Department personnel without discrimination, and provide the information in a manner relevant to each program area.

5. Reporting Requirements: Training personnel administrators report attendance at the NHI classes to the appointed Human Resources Specialist. This report is then forwarded to the Title VI Specialist showing race and gender of trainees. The Title VI Specialist summarizes these reports for the Annual Title VI Update.

6. Miscellaneous: In addition to the NHI and the Technology Transfer educational tools and events, the CRO and ADOT&PF provide Title VI, ADA and other relevant Civil Rights training to the Department. This training is voluntary unless an annual review of the program indicates a need, in which case the CRO provides a recommendation.

Contracts – (i) Construction and (ii) Consultant

(i) Construction: Advertising, Contract Provisions, Bidding Process, and Award Process

1. Identification of Impacts: Contracts is responsible for ensuring that all provisions required by FHWA are included in the appropriate recipient contracts. Construction Contracts impacts the entire construction community, including contractors, subcontractors, manufacturers, and suppliers, by posting and advertising the Department's construction contracts. Contracts uses the procurement link on the Department of Transportation web site as well as the Online Public Notice System. This method ensures that the entire contract award process, from initial advertising to the contract award, is accomplished in a nondiscriminatory manner. It provides the disadvantaged business owners with the same opportunity to bid and/or submit requests for proposals as other contractors and subcontractors.

2. Mitigation Measures: When available, Contracts utilizes women and minority plan-holder organizations to make plans of advertised projects available for review. The CRO encourages the Contracts Section to make inquiries of women and minority non-profit groups that have a business development component. The CRO includes ADOT&PF's procurement/project web address in its newsletter to help women and minority owned businesses to understand the manner in which the Department advertises its projects and contractor responsibility.

3. Public Involvement: Contracts' outreach activities generally do not impact Title VI concerns. However, any outreach activities must be all-inclusive, and must produce responses that indicate the outreach was non-discriminatory.

4. Benefits and Services: Specific outreach through the ADOT&PF Disadvantaged Business Enterprise and Support Services programs to women, minorities, and low-income contractors and sub contractors brings these groups into the mainstream competition for the projects. The benefits are two-fold: 1) women, minorities, and low-income groups receive equal opportunity for awards, providing necessary experience and funds to grow the business, and 2) ADOT&PF has the advantage of increased competition resulting in more economic costs.

5. Reporting Requirements: For each construction contract awarded, Contracts will report to the Title VI Specialist by submitting the following documents:

- EEO-1 Certification, Form 25A-304
- Contact Report, Form 25A-321A
- DBE Utilization Report, Form 25A-325C
- Prime Contractor's Written DBE Commitment, Form 25A-326
- Summary of Good Faith Effort, Form 25A-332A (when appropriate)

(ii) Consultant (Professional Service Agreements)

1. Identification of Impacts: Consultant Contracts impacts the consultant community through advertising. Regional Managers and the Contracts section administer consultant contracts for master plans, environmental studies, surveying, engineering, architecture, real estate appraisal, and other entities needed for a project.

2. Mitigation Measures: The Department includes a Title VI nondiscrimination clause in all consultant contracts. On Federally funded Professional Service Agreements, the Department seeks to provide opportunities for women and minority owned businesses to participate in the Department's consultant contracts. To accomplish this goal, awards for procurement contracts are based on the quality of the proposal rather than the cost.

3. Public Involvement: Contracts' outreach activities generally do not impact Title VI concerns. However, any outreach activities must be all-inclusive, and must produce responses that indicate the outreach was nondiscriminatory.

4. Benefits and Services: The Department optimizes the opportunities for women and minority owned businesses by basing awards for procurement contracts on merit and quality rather than cost. This affords smaller and younger entities an opportunity to compete in the area of expertise while growing its operation.

5. Reporting Requirements:

Contracts > \$5,000 ≤ \$100,000: Report to the Title VI Specialist using a copy of the contract's Record of Negotiation and Selection for Professional Services Agreements and Small Procurement Documents, Part C (Contract Award, Notice to Proceed and Invoice Summary).

Contracts > \$100,000: Report to the Title VI Specialist using a copy of the contract's Record of Negotiation and Selection for Professional Services Agreements involving Planning, Environmental, Design, Right-of-Way, Construction, Ferry Vessels and Terminals, and International Airport services for FHWA funded projects.

Alaska Marine Highway System

Overview: The Alaska marine highway System (AMHS) is the section of the Department that operates the State's ferry system. AMHS has facilities and serves ports in the Department's Central and Southeast Regions, Canada, and the State of Washington. AMHS is organizationally located in Ketchikan, Alaska. AMHS Title VI Responsibilities are:

- To continue efforts to explore the transportation needs within minority communities served;
- To involve minority and low-income communities and individuals with disabilities in planning for the delivery of AMHS services;
- To reach out to a variety of consultants, including women and minorities, for contracting opportunities for planning, route and schedule studies, construction and retrofit work on AMHS vessels or other work;
- To include minorities and individuals with disabilities on advisory boards and committees and in leadership roles;
- To advertise and hold public meetings/hearings about AMHS services in places where minorities and individuals with disabilities live or congregate;
- To communicate orally and in writing in languages other than English, when needed;
- To consider the special needs of all persons served by AMHS in accordance with public accommodation requirements; and
- To follow-up with all populations in the communities after public meetings, when decisions are made, and after transportation changes have been implemented to receive feed-back regarding impact and the effectiveness of the process used.

The Program areas of AMHS are listed below. Any differences in impacts, mitigating measures, public involvement, benefits and services, or reporting requirements for the various Program Areas of AMHS are noted.

- A. Planning.** Public involvement during the planning phase is accomplished by presenting the AMHS Six-Year Capital Improvement Plan for comment and review at the annual Southeast and Southwest Regional Conferences.
- B. Environmental & Design.** No differences between AMHS procedures and the procedures provided in the Design Section. AMHS uses Southeast Region Contracts for advertising and awarding Capital Improvement Plan projects. See p. 38
- C. Construction.** AMHS Construction procedures, including reporting requirements, are the same as provided in the Construction section. See p. 43
- D. Consultant Contracting.** AMHS Consultant Contracting procedures are the same as provided in the Consultant Contracting section. See p. 47

International Airports when FHWA funds are used on airport property

On occasion, FHWA funds are used for improvements to roads located on airports owned by ADOT&PF. These projects are designed and constructed using regional highway design and construction staff from the region in which the airport is located. The Title VI monitoring and reporting will be accomplished by the regional program areas in the same manner as they would for any other FHWA project.

Sub-recipients

Review Process for sub-recipients and grantees: The CRO conducts compliance reviews of sub-recipients: cities, consultants, contractors, colleges and universities, planning agencies, and other recipients of highway funds. The Contract Compliance Specialists conduct the reviews for contractors of all modal transportation areas. The Title VI Specialist conducts reviews for cities, International Airports, universities, Alaska Marine highway System, and the Alaska Railroad.

1. Contractors, Contract Compliance Specialists and the Criteria for selecting Contractors for review.

Contractors are selected based on FHWA's *Equal Opportunity Contract Compliance Review Training Manual*. Criteria include:

- Largest dollar value, starting at \$10,000,000
- Contractors not having been reviewed in the past year or two
- Contractors with past reporting data indicating underutilization of women and/or minorities in their workforce
- Contracts that contain Special Provision of § 645, training
- Contractors that FHWA specifically requested be reviewed
- Contractors with complaints regarding employment practices

2. Other sub-recipients. Sub-recipients are entities that receive federal monies through the ADOT&PF. Sub-recipients include the Municipality of Anchorage, the City of Fairbanks, Fairbanks North Star Borough, and the City and Borough of Juneau, as well as other sub-recipients as appropriate. The Title VI Specialist will review sub-recipients on a rotating basis during the first quarter of even numbered years.

The review of sub-recipients will examine how the sub-recipient accomplishes the following:

- Explore the transportation needs within minority and low-income communities located within their political or service area boundaries
- Involve minority and low-income populations and individuals with disabilities in planning for the delivery of Alaska Marine Highway Service
- Utilization of women and minorities for contracting opportunities for planning, environmental & design studies, right-of-way, and construction FHWA sub-recipient work.
- Include minorities and individuals with disabilities on advisory boards and committees and in leadership roles of the sub-recipient's organization
- Document Title VI efforts regardless of impact on minority and low-income populations

- Conduct outreach such as advertising public meetings and hearings in places where minorities and individuals with disabilities live and congregate
- Plan for meetings at times and locations convenient for the minority, low-income community and for individuals with disabilities
- Communicate, orally and in writing, in languages other than English when addressing a population with a significant number of non-English speaking people
- Provide for the special needs of all persons in accordance with the public accommodation requirements
- Follow up with individuals with disabilities, minority and low-income populations after public meetings, when decisions are made, and after transportation changes have been implemented for feedback on impacts and the effectiveness of the process.

Special Emphasis

Identification of impacts, mitigation measures, public involvement, benefits and services, and reporting requirements, are all dependent on the specific special emphasis program being reviewed.

Design/Build Contractors

Design/Build Contractors, in assuming departmental responsibilities for design and construction of the FTA funded facilities, also assume all the Title VI responsibilities attributed to the department for those functions. Design/Build Contractors continue to have the Title VI responsibilities required of other contractors working on FTA funded projects as required by the Title VI Assurance for all Contractors.

Procedures to Identify and Eliminate Discrimination

1. The Title VI Specialist, located in the Civil Rights Office, is responsible for initiating and monitoring Title VI activities. Any evidence or suspected activity that indicates present or potential discrimination should be reported to the Title VI Specialist.
2. Title VI Liaison. Each program area within the STA shall appoint a Title VI Liaison. Program areas include: Planning, Preliminary Design & Environmental, Right-of-Way, Construction, Research, National Highway Institute, Construction Contracts, Alaska Marine Highway System, International Airports, Sub-recipients.
3. The Title VI Specialist and the Liaisons from each program area will meet quarterly to discuss any events that relate to Title VI issues, whether violation of the mandates of the act or events illustrating successful implementation of the mandates.
4. Where there is evidence of discrimination or potential discrimination, the Title VI Specialist shall (1) notify the Civil Rights Manager, and (2) arrange a meeting with the Section Chief of the area of the suspected discrimination, with the aim of resolving the issue immediately and correcting the situation.
5. In the event there is no resolution of the issue in the informal meeting with the Section Chief, the Title VI Specialist shall initiate a complaint investigation.

Complaint Process & Procedure

The Title VI complaint procedure for any person or group of people shall be to file a complaint in writing with the Department's Civil Rights Office. The complaint shall be adjudicated by the responsible Contracting Officer. Any appeal of the Contracting Officer's decision shall be made to the Chief Contracts Officer. Any further appeal shall be resolved through FHWA, USDOT, or in the appropriate Court of Law.

A complaint must be received within 180 days of the event, or within 180 days from the date the complainant had knowledge of the event. If the behavior is ongoing, the 180 days begins when the behavior stopped or on the date of the last event.

The process that the Civil Rights Office shall follow to resolve the complaint is:

1. Within Five (5) working days of receipt of the complaint, acknowledge receipt to the complainant by registered mail. The acknowledgement from the Civil Rights Office shall include a questionnaire requesting the following information:
 - Name, address, and telephone number of the complainant.
 - Name(s), and address(es) if available, of alleged discriminating organization(s)/ individual(s)
 - Basis of complaint (i.e. race, color, gender, or national origin).
 - Date of alleged discriminatory act(s).
 - A statement of the complaint.
 - Any other agencies (state, local, or federal) with which the complaint has been filed.
2. Within five (5) days of receipt of the complaint, notify the responsible Contracting Officer, the Section Chief for the Section implicated in the complaint, and the FHWA Division Office. This notification shall include the nature of the complaint, the date the complaint was received, and any action(s) proposed or already taken to resolve the complaint.
3. Within five (5) days of the receipt of the completed questionnaire, acknowledge receipt of the completed questionnaire to the complainant by registered mail.
4. The allegation will be investigated by the Civil Rights Office Title VI Specialist trained in Compliance investigations involving violations of the Title VI of the 1964 Civil Rights Act, as amended.
5. The Civil Rights Office investigator will prepare a Report of Findings for the responsible Contracting Officer.
6. Within forty-five (45) days of receipt of the completed questionnaire, notify the complainant of the decision reached by the responsible Contracting Officer including

proposed disposition of the matter. The notification shall advise the complainant of avenues for appeal if dissatisfied with the decision. The proposed resolution should require action adequate to correct and prevent similar occurrences of discrimination.

7. Within sixty (60) days of receipt of the completed questionnaire, provide the Division FHWA Office with a copy of the complaint and a report containing the following information:
 - The race, color, sex, or national origin of the complainant(s).
 - The recipient.
 - The nature of the complaint.
 - The date the complaint was filed and the date that the investigation was completed.
 - The disposition and the date of the disposition.
 - Other pertinent information.
8. Periodically inform the Division FHWA Office regarding the status of all complaints.

This procedure shall not prohibit informal attempts to resolve the matters, but such informal attempts and their results shall be included in the periodic of investigations.

The fact that an allegation has been filed directly with the FHWA does not relieve the state, upon being informed of the allegation, of responsibility for taking the action pursuant to its own internal procedures to resolve the matter.

Deficiencies (ADOT&PF)

Non-compliance with Title VI can fall into two categories: 1) technical deficiencies such as failing to include the appropriate assurances in a contract, or 2) substantive deficiencies which are practices that have the effect of denying equal access to Federal monies.

Technical deficiencies

In the event a review uncovers a technical deficiency, the deficiency will be discussed with the Program Manager for correction during the exit conference. If the discrepancy is not voluntarily amended, the Title VI Specialist will report the matter to the Civil Rights Manager. If not corrected when the final Review Report is forwarded to FHWA, the discrepancy will be included in the report.

Substantive deficiencies

In the event a review uncovers a substantive deficiency, the Civil Rights Manager, the Title VI Specialist, and the Program Manager will discuss procedures to promptly resolve the deficiency. Within 90 days the agreed upon procedures describing the remedial action will be put into writing. The Civil Rights Office will be available for technical assistance throughout the remedial time period. If necessary, the Title VI Specialist will verify that ADOT&PF is now in full compliance and will include the corrected procedure in the Review Report to FHWA. If there is no agreed upon procedure to remedy the deficiency, the Title VI Specialist will forward a written report to the Civil Rights Manager.

LIMITED ENGLISH PROFICIENCY

Authority

Executive Order (EO) 13166 - Improving Access to Services for Persons with Limited English Proficiency (LEP), August 2000 is directed at implementing the protections afforded by Title VI of the Civil Rights Act of 1964 and related regulations. It prohibits recipients of Federal financial assistance from discriminating based on national origin by failing to provide meaningful access to services to individuals who are not proficient in English. This protection ensures that all persons be provided an equal opportunity to benefit from or have access to services that are normally provided in English.

LEP Defined

Limited English Proficiency is a term used to describe individuals who are not proficient in the English language. According to the 2000 U.S. Census, among limited English speakers, Spanish is the language most frequently spoken, followed by Chinese (Cantonese or Mandarin), Vietnamese and Korean. With regard to limited English speakers in Alaska, Spanish is also the most frequently spoken language. However, Yupik, Tagalog, Inupiaq and Korean round out the top five non-English languages spoken here. In 2004, the American Community Survey revealed that 12.7% of Alaskans spoke another language other than English. That equates to roughly 50,075 Alaskans. The Alaska Department of Transportation and Public Facilities (ADOT&PF) operates among three regions, Central (Anchorage-based), Northern (Fairbanks-based) and Southeast (Juneau-based). Within these regions, there are slight variations from the statewide top five languages. Each region's top five are: Central - Spanish, German, French, Russian and Tagalog; Northern - Spanish, German, Korean, Tagalog and French and Southeast – Tagalog, Spanish, Tlingit, French and German. According to the U.S. Department of Education, Office of English Language Acquisition, Language Enhancement and Academic Achievement for LEP students, the statewide top five languages are Yup'ik, Inupiaq, Spanish, Tagalog and Russian.

LEP and the Alaska Department of Transportation& Public Facilities

There are two laws, Title VI of the Civil Rights Act of 1964 and the Presidential Executive Order (EO) 13166, Improving Access to Services for Persons with Limited English Proficiency, that require the ADOT&PF to provide LEP persons with meaningful access to programs, activities and services. To fully implement Title VI and EO 13166, the US DOT published guidance to its recipients of federal assistance on December 14, 2005 in the Federal Register.

Responsibilities – ADOT&PF

The guidance on EO 13166 directs recipients of Federal financial assistance to take reasonable steps to provide LEP individuals with meaningful access to their programs, activities and services. For the purpose of this plan, the following recipients are subject to compliance under Title VI and the EO:

Planning, Design, Environmental, Right-of-Way, Construction, Contracts, Maintenance and Operations, Research and Technology Transfer, Alaska Marine Highway System (AMHS), FAA (rural airports), sub-recipients (Construction Contractors, Consultants, Metropolitan Planning Organizations (AMATS, FMATS) and public transit systems in Alaska.

Based on this guidance, the department will:

- Assess and address the needs of eligible persons;
- Take reasonable steps or ensure that responsible steps are taken to achieve meaningful access;
- Develop and implement monitoring control mechanisms to ensure delivery of service and ongoing compliance;
- Ensure compliance, monitoring, and oversight;
- Provide technical assistance and guidance; and
- Report accomplishments and goals.

The CRO will:

- Ensure compliance, monitoring, and oversight; and
- Provide technical assistance and guidance.

Compliance and Enforcement

ADOT&PF is responsible for ensuring that meaningful services to LEP persons are provided in their respective areas of responsibility. The CRO will continuously monitor ADOT&PF programs and activities to ensure LEP requirements are fulfilled. Each responsible area of ADOT&PF will report annual accomplishments and upcoming goals relating to LEP activities to the Civil Rights Title VI Specialist and subsequently included in the Title VI Annual Update.

In determining whether LEP compliance is met, the Civil Rights Title VI Specialist will assess whether the ADOT&PF procedures enable LEP persons to overcome language barriers and participate in a meaningful way in the recipient's programs, activities and services. ADOT&PF's appropriate use of methods and options detailed in this LEP Plan document, including analysis and documentation, constitute evidence of intent to comply with LEP requirements and Title VI of the Civil Rights Act of 1964.

Technical Assistance

The Civil Rights Title VI Program is responsible for providing technical assistance. This includes advising ADOT&PF staff and sub-recipients of LEP requirements and its implementation and assistance in developing individual program plans and mechanisms.

Providing meaningful access

The key to providing meaningful access for LEP persons is to ensure effective communication exists between the service provider/recipient and the LEP person. To accomplish effective communication, the ADOT&PF will take the following actions:

- Perform a needs assessment.
- Provide for oral language assistance.
- Notify LEP customers of the availability of language assistance services.
- Translate vital documents in languages other than English.
- Train staff.
- Develop written procedures.
- Monitor and evaluate access to language assistance.

Following is a description of each of these actions:

Perform a needs assessment

ADOT&PF will assess language assistance needs of those impacted by a project by identifying and/or accomplishing the following:

- Every three to five years, languages likely to be encountered and the number of LEP persons in the eligible population (project area) likely to be directly affected;
- Making contact with the public where language assistance is needed beginning at the project planning stage;
- Resources needed to provide effective language assistance, including location, availability and arrangements necessary for timely use.

Provide for oral language assistance

Providing LEP persons with oral language assistance when requested and as resources are available is appropriate. Such assistance may take the form of bilingual staff, contracting with a professional interpreter service, or the use of voluntary community interpreters who are skilled and competent in interpreting. Collaborating with the Language Interpreter Center (LIC) is a vital component of this assistance to provide professional interpreter service.

The Department will employ bilingual staff when it is practical and consistent with project goals. The decision to employ bilingual staff will be based on project needs and specifically written into the position description for identified project staff.

Notify LEP customers of availability of language assistance services

LEP persons have the right to language assistance in their spoken language without cost. Project Managers, through their public involvement consultants and transit operators, are responsible for informing the public of this right. Language identification cards or posting signs in public areas are methods that can be used to provide notice of the service.

Translation of vital documents in languages other than English

Important vital documents will be provided in English to the general public and translated into languages that are regularly encountered by project staff in the project/service area.

“Vital Documents” are documents that convey information that critically affects the ability of the recipient/customer to make decisions about his or her participation in the program, activity or service. Examples of vital documents include but are not limited to: applications, public notices, consent forms, letters containing important information regarding participation in a program, eligibility rules, notices pertaining to the reduction, denial or termination of services or benefits, right to appeal, notices advising of the availability of language assistance and outreach and community education materials. It is recommended that recipients develop criteria for deciding which documents are vital, and thereby subject to translation. Translating documents for LEP to a fourth (4th) grade literacy level ensures the targeted audience understands the information. Community based organizations or focus groups can assist with testing translations for language and literacy level appropriateness.

Train Staff

Staff will be trained on policies and procedures of language assistance. How to determine whether a customer needs language assistance services is essential to bridging the gap between policies and actual practices. Training will include how to obtain language assistance services, and communication with interpreters and translators. Because LEP persons can file a complaint on the basis of national origin, the CRO has staff trained on how to properly handle a Title VI complaint in this area.

Develop written procedures

The department will provide guidance to employees through written procedures that address the following:

- Identifying and assessing language needs
- Oral language assistance; including vendor charges for services, procedures on how to access and to request translation assistance
- Written translation of materials and publications
- Oral and written notification of the availability of language assistance
- Staff training on language service provision
- Monitoring access to language assistance

Monitor and evaluate access to language assistance

The Department will monitor and evaluate accessibility and quality of language assistance available for the needs of LEP persons so as to ensure LEP persons can meaningfully access programs and activities. The CRO staff will include in its annual Title VI Update our annual assessment to determine the current LEP composition of our service area, the current communication needs of LEP persons, whether existing assistance meets LEP needs, whether department staff is knowledgeable about policies and procedures and how to implement them, and whether sources of and arrangements for assistance are still current and viable.

Data Collection and Record Keeping

Part of the department's monitoring and compliance system will be data collection. Data collection mechanisms may include the following:

- Race of LEP person (voluntary)
- Ethnicity of LEP person (voluntary)
- Gender of LEP person
- Number in attendance at public meetings
- Primary language of the population in the project area
- Data upon which the recipient based language needs assessment
- Number of LEP persons, by language group, who received language services

LEP Criteria

The Department will make reasonable efforts to provide meaningful access for individuals with limited English proficiency to its programs, activities and services. Following are factors the Department will consider when determining what is reasonable:

- The number or proportion of people who will be excluded from the program or activity absent efforts to remove language barriers
- The frequency of contact

- The available resources
- The size of the project, and the impact on the community
- The projected length of time the project will disrupt the community
- The safety issues involved for the community, especially children
- Resources available, including cost. LEP Guidance provided by the U.S. Department of Justice provides that when costs substantially outweigh the benefits, the efforts in this regard may be unreasonable

Guidance/Resources

The resources listed below will assist department in implementing LEP requirements and may be used in conjunction with this LEP plan.

- *The U.S. Department of Transportation Guidance to Recipients on Special Language Services to Limited English Proficient Beneficiaries*, Federal Register/Vol. 66, No. 14/Monday, January 22, 2001. (Refer to the Civil Rights Title VI Program Resource Directory, Tab 29.)
- *The U.S. DOJ Policy Guidance, Enforcement of Title VI of the Civil Rights Act of 1964- National Origin Discrimination Against Persons With Limited English Proficiency*, Federal Register/Vol. 65, No. 159/Wednesday, August 16, 2000 <http://www.usdoj.gov/crt/cor/>
- *U.S. Department of Justice Clarifying Memorandum*, dated October 26, 2001 United States Census 2000 Language Identification Flashcard
- *How to Engage Low-Literacy and Limited English Populations in Transportation Decision Making* – US Department of Transportation, Federal Highway Administration, March 2006